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| 09/982,249      | 10/16/2001  | Brian J. Brozell     | 17638 USA           | 7618             |

7590 05/21/2003  
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EXAMINER

ELOSHWAY, NIKI MARINA

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3727

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/982,249

Applicant(s)

BROZELL ET AL.

Examiner

Niki M. Eloshway

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Election/Restrictions*

1. Claim 56 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.
2. Applicant's election without traverse of Group I (claims 1-55) in Paper No. 6 is acknowledged.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4-6, 32, 33, 35, 42, 46 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Reiss et al. (U.S. 4,032,028). Reiss et al. teaches a container having one external thread 30 with pockets between elements 48 and 50 and elements 34 and 46. The closure has an internal thread comprised of 36, 38 and 40. The internal thread has lugs at 42 and 44. The stop is considered to be one of the vertical surfaces of element 34. The abutment face is the surface of element 44 which engages the stop surface of element 34.
5. Claims 1, 8-12 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Degaetano (U.S. 3,739,933). Degaetano teaches a container with an external thread 89 and a closure 80 with an internal thread. The pocket is element 90. the stop is the vertical surface of the pocket 90 which engages the leading surface of the closure lug.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 8, 9, 16-19, 21 and 50-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss et al. in view of DT 2,626,875. Reiss et al. discloses the claimed invention except for the threads being continuous. DT 2,626,875 teaches that it is known to provide a container assembly with either continuous or discontinuous threads with pockets and lugs (see the discontinuous threads in figures 1-4 and the continuous threads in figures 5-8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Reiss et al. with continuous threads, as taught by DT 2,626,875, in order to better guide threads into the appropriate positions.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss et al. in view of King (U.S. 4,084,717) and Ladina et al. (U.S. 5,462,186). Reiss et al. discloses the claimed invention except for the stop being at the upper end of the internal thread and except for second internal and external threads. King teaches that it is known to provide a container assembly with a stop at the upper end of the internal thread (see elements 22 and 22a). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Reiss et al. with the stop being at the upper end instead of the lower end, as taught by King, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

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Ladina et al. teaches that it is known to provide a container assembly with dual internal and external threads (see element figures 1 and 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Reiss et al. with the second internal and external threads, as taught by Ladina et al., in order to allow the user to fully close and securely fasten the closure with less rotation of the closure with respect to the container.

9. Claims 7, 34 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss et al. in view of King (U.S. 4,084,717). Reiss et al. discloses the claimed invention except for the stop being at the upper end of the internal thread. King teaches that it is known to provide a container assembly with a stop at the upper end of the internal thread (see elements 22 and 22a). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Reiss et al. with the stop being at the upper end instead of the lower end, as taught by King, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

10. Claims 10-12 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss et al. in view of DT 2,626,875, as applied to claim 8 and 16 above, and further in view of Davis (U.S. 4,567,992). The modified assembly of Reiss et al. discloses the claimed invention except for the spring being of integrally molded plastic construction. Davis teaches that it is known to provide a container assembly with a spring which is integrally molded with the closure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Reiss et al. with the spring being replaced by the spring of Davis (element 16 of Davis), in order to reduce the amount of parts needed for a complete container.

11. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss et al. in view of DT 2,626,875, as applied to claim 18 above, and further in view of King (U.S. 4,084,717). The modified invention of Reiss et al. discloses the claimed invention except for the stop being at the upper

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end of the internal thread. King teaches that it is known to provide a container assembly with a stop at the upper end of the internal thread (see elements 22 and 22a). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Reiss et al. with the stop being at the upper end instead of the lower end, as taught by King, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

12. Claims 22, 36 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss et al. in view of DT 2,626,875, as applied to claims 18 and 50 above, and further in view of Ladina et al. (U.S. 5,462,186). The modified invention of Reiss et al. discloses the claimed invention except for the second internal and external threads. Ladina et al. teaches that it is known to provide a container assembly with dual internal and external threads (see element figures 1 and 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Reiss et al. with the second internal and external threads, as taught by Ladina et al., in order to allow the user to fully close and securely fasten the closure with less rotation of the closure with respect to the container.

13. Claims 13-15, 26-31 and 37-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Degaetano (U.S. 3,739,933) in view of Ou-Yang (U.S. 4,935,273). Degaetano discloses the claimed invention except for the liner having metal and plastic layers. Ou-Yang teaches that it is known to provide a closure with a liner having metal and plastic layers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the closure assembly of Degaetano with the liner having metal and plastic layers, as taught by Ou-Yang, in order to better seal and protect the contents within the container.

14. Claims 43 are 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss et al. in view of Davis (U.S. 4,567,992). The assembly of Reiss et al. discloses the claimed invention except

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for the spring construction. Davis teaches that it is known to provide a container assembly with a spring which extends from the closure base. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Reiss et al. with the spring being replaced by the spring of Davis (element 16 of Davis), in order to reduce the amount of parts needed for a complete container.

15. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss et al. in view of Davis (U.S. 4,567,992), as applied to claim 43 above, and further in view of Ladina et al. (U.S. 5,462,186). The modified invention of Reiss et al. discloses the claimed invention except for the second internal thread. Ladina et al. teaches that it is known to provide a container assembly with dual internal thread (see element figures 1 and 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Reiss et al. with the second internal thread, as taught by Ladina et al., in order to allow the user to fully close and securely fasten the closure with less rotation of the closure with respect to the container.

### *Conclusion*


16. THIS ACTION IS NON-FINAL.

17. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (703) 308-1606. The examiner is in

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the office on Tuesdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Customer Service Office at (703) 306-5648.



Niki M. Eloshway/nme  
Patent Examiner  
May 16, 2003